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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re Application of : Cleary et al.
 For : Methods and Apparatus for Automatic
 Reporting of Mortgage Delinquency
 Serial No. : 09/683,660
 Filed : 01/31/2002
 Group : 3692
 Examiner : Ali, Mohamed A.

Durham, North Carolina
 March 3, 2008

MAIL STOP APPEAL BRIEF – PATENTS
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

APPELLANTS' BRIEF

Sir:

1. The Real Party In Interest

The real party in interest is the assignee, GE Mortgage Holdings, LLC.

2. Related Appeals and Interferences

None.

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3. Status of the Claims

This is an appeal from the July 3, 2007 final rejection ("the final rejection") of claims 1-19, all of the pending claims. Claims 1-19 were rejected under 35 U.S.C. § 102(e) as being unpatentable over Sellers U.S. Publication No. 2001/0044773 (Sellers).

4. Status of Amendments

The claims stand as amended on June 6, 2007. No further amendment has been made. A Response After Final submitted October 30, 2007, did not make any amendment to the claims.

5. Summary of Claimed Subject Matter

The present invention addresses systems and techniques for recording software program scheduling information from within an operating system as addressed further below.

Claim 1

Claim 1 addresses a system for managing and reporting mortgage delinquency information. The system comprises a delinquency information database for receiving, storing and maintaining mortgage delinquency information entries. Each mortgage delinquency information entry comprises information identifying and providing relevant details about a delinquent mortgage, including information identifying a property for which a mortgage is in a delinquent state and information identifying the nature and status of the delinquency. See, for example, Fig. 1 (delinquency information database 118), specification, p. 6, lines 4-15, Fig. 6A (hypertext page 602), specification, p. 11, lines 12-24. Claim 1 further addresses a delinquency information manager operative to retrieve delinquency information entries from the delinquency information database and store delinquency information entries in the delinquency information database. The delinquency information manager is accessible to a user computer through a publicly accessible network. See, for example, Fig. 1 (delinquency information manager 116,

user computer 120, public network 108, private network 106, delinquency information server 114), specification, p. 5, line 27, p. 6, line 18. The delinquency information manager presents one of a number of selectable interfaces upon selection by the user to allow the user to transmit delinquency information from the user computer through the publicly accessible network. The selection of interfaces includes a form for creation and transmission of new delinquency information entries. See, for example, specification, p. 2, lines 24-28. Creation of a new delinquency information entry results in transmission of an initial report of delinquency of a specified mortgage from a mortgage servicer to a mortgage insurer. See, for example, Fig. 5A ("new NOD" command 506), specification, p. 10, lines 18-19. The selection also includes a form for modification of previously submitted delinquency information entries See, for example, Fig. 7A (hypertext page 702), specification, p. 12, line 23-p. 13, line 4. The selection further includes an interface for identification and uploading of a file containing delinquency information. See, for example, Fig. 5A ("file upload" command 507), specification, p. 10, lines 20-21. The delinquency information manager is operative to format the delinquency information and store it in the delinquency information database in the form of delinquency information entries after the delinquency information is received from the user computer. See, for example, specification, p. 3, lines 2-5.

Claim 13

Claim 13 addresses a method of mortgage delinquency management. The method comprises establishing an account identifying a mortgage servicing entity; establishing a connection with a user computer through a publicly accessible network and upon presentation of authentication information associated with the account, allowing access by the user computer to an electronic data storage area and allowing retrieval from the electronic data storage area of

previously stored entries identified with the account and storage in the electronic data storage area of new or updated entries identified with the account. See, for example, Fig. 9, steps 902-908, 912, specification, p. 13, line 25-p. 14, line 15, p. 14, line 27-p. 15, line 1. Claim 13 further comprises, upon commands and selections received from a user through the user computer, presenting one or more interfaces to the user to allow creation, review, modification and storage of delinquency information entries, including information identifying a property for which a mortgage is in a delinquent status and information identifying the nature and status of the delinquency. Each delinquency information entry includes delinquency information identifying and providing relevant details about a mortgage associated with the servicing entity. See, for example, Fig. 9, steps 906-914, specification, p. 14, line 5-p. 15, line 5, Fig. 6A (hypertext page 602), specification, p. 11, lines 12-24. Creation of a new delinquency information entry results in transmission of initial notification of a delinquency to a mortgage insurer. See, for example, Fig. 5A ("new NOD" command 506), specification, p. 10, lines 18-19, Fig. 6A, specification, p. 11, lines 12-24. At least one interface allows identification and upload of a file from the user computer. See, for example, Fig. 5A ("file upload" command 507), specification, p. 10, lines 20-21. Claim 13 further addresses, upon receiving one or more delinquency information entries from the user computer and receiving a command to store the delinquency information entries, storing the delinquency information entries in the electronic data storage area. See, for example, Fig. 9, steps 920, 922, specification, p. 15, lines 11-21.

6. Grounds of Rejection to be Reviewed on Appeal

Claims 1-19 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over Sellers.

7. Argument

A. Rejection under 35 U.S.C. § 102(e) over Sellers

The rejection under 35 U.S.C. § 102(e) does not follow MPEP § 706.02(V) which states at page 700-23 "for anticipation under 35 U.S.C. 102, the reference must teach every aspect of the claimed invention either explicitly or impliedly." In contrast with this clear requirement, the final Office Action bases an anticipation rejection on portions of Sellers, which do not teach each feature of the claimed combination of elements and thus cannot anticipate the presently claimed invention. For the above reason, this rejection should be reversed.

Sellers addresses a system which provides automated mechanisms for obtaining loan workout decisions. A loan servicer enters inputs concerning a proposed workout using a personal computer or workstation. The inputs identify the borrower, and information specific to a proposed workout. The inputs are transmitted over an Internet connection to a Web server computer, which makes a determination as to whether the proposed workout is acceptable. A series of Web pages are provided for receiving inputs from, and providing outputs to, the loan servicer. Sellers, col. 2, paragraphs [0027]-[0028]. Sellers provides interfaces for entries identifying the borrower and loan and information relating to the status of the loan and the nature of the desired workout. Sellers, Figs. 5, 6, 7, paragraphs [0036]-[0050]. The various inputs and decisions addressed by Sellers all relate to a loan workout, and do not address initial reporting of a delinquency as claimed.

Claims 1 and 13

Claim 1 recites "a delinquency information manager . . . presenting one of a number of selectable interfaces upon selection by the user to allow the user to transmit delinquency information from the user computer through the publicly accessible network, the selection of

interfaces including a form for creation and transmission of new delinquency information entries, creation of a new delinquency information entry representing an initial report of delinquency of a specified mortgage from a mortgage servicer to a mortgage insurer. . .” (emphasis added).

Sellers teaches a system for submission and automated analysis of negotiated workout proposals for a financially troubled borrower. A workout proposal typically arises when a mortgage is already delinquent, and Sellers does not explicitly address initial reporting of a delinquency.. In its analysis of the claimed “delinquency manager” of claim 1, the final Official Action refers to paragraphs [0055], [0031] and [0026], as well as paragraphs [0025], [0028], and [0032-0035] of Sellers. After reciting language of claim 1, including the language quoted above relating to creation and transmission of new delinquency information entries, the Official Action points to paragraphs [0031] and [0026] of Sellers as addressing the e-LMO Fast Track system using forms and functions in a template based application, and that a first workout recommendation of a loan servicer is reviewed by mortgage institutions and decisions and negotiated terms communicated back to the loan servicer to submit a final workout package. The Official Action also points to paragraphs [0025], [0028], and [0031]-[0035] as teaching a form for modification of previously submitted delinquency information entries and an interface for identification and uploading of a file containing delinquency information, and a delinquency information database in the form of delinquency information entries after delinquency information is received from a user computer.

None of this cited text addresses interfaces including a form for creation and transmission of new delinquency information entries, with creation of a new delinquency information entry representing an initial report of delinquency of a specified mortgage from a mortgage servicer to

a mortgage insurer. Sellers is directed to analysis of workout proposals, which typically arise after a mortgage has been delinquent for some time. An initial report of a delinquency alerts the insurer that a mortgage is delinquent, and helps the insurer to participate in avoiding or minimizing the potential for loss presented by the delinquency. Early notification of the insurer may also help the insurer to direct or suggest early steps, such as a temporary payment reduction, that may reduce the risk of more drastic steps, such as a permanent modification of terms or a deed in lieu of foreclosure, which may be needed if the problem is allowed to continue without intervention. Notification of a delinquency may also be undertaken in circumstances in which no workout involving concessions on the part of the servicer is yet needed or will be needed. In the case of a property whose value is greater than the loan balance, early notification of the insurer would allow the insurer to determine that it did not face a substantial risk of loss, and could suggest to the servicer that a normal foreclosure and sale could be undertaken before accumulated interest and fees, or deterioration of the property, threatened to excessively increase the amount at risk. Such notification, and automated means therefor, is not addressed by Sellers. Sellers at paragraph [0033] briefly describes Fig. 4 stating "this portion of the website includes four services" including "Delinquency Reporting and Claims 76" as a block in Fig. 4 without any further explanation, but this brief reference does not anticipate the claimed limitation.

Moreover, any reliance upon Sellers under 35 U.S.C. 103(a) is improper because Sellers was commonly owned with the present invention at the time the present invention was made and therefore cannot be relied upon under 35 U.S.C. 103(a). Supporting evidence is found in the Evidence Appendix below.

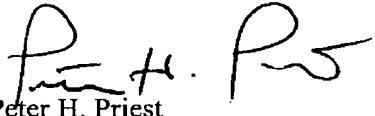
Claim 13 recites "...presenting one or more interfaces to the user to allow creation, review, modification and storage of delinquency information entries, including delinquency

information identifying and providing relevant details about a mortgage associated with the servicing entity, **creation of a new delinquency information entry resulting in transmission of initial notification of a delinquency to a mortgage insurer . . .**" (emphasis added). As discussed above with respect to claim 1, this claimed feature of claim 13 is not anticipated by Sellers, and, as noted above, Sellers is not valid prior art under 35 U.S.C. 103(a).

8. Conclusion

The rejection of claims 1-19 should be reversed and the application promptly allowed.

Respectfully submitted,


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CLAIMS APPENDIX

(Claims Under Appeal)

1. A system for managing and reporting mortgage delinquency information, comprising:

a delinquency information database for receiving, storing and maintaining mortgage delinquency information entries, each mortgage delinquency information entry comprising information identifying and providing relevant details about a delinquent mortgage including information identifying a property for which a mortgage is in a delinquent state and information identifying the nature and status of the delinquency; and

a delinquency information manager operative to retrieve delinquency information entries from the delinquency information database and store delinquency information entries in the delinquency information database, the delinquency information manager being accessible to a user computer through a publicly accessible network, the delinquency information manager presenting one of a number of selectable interfaces upon selection by the user to allow the user to transmit delinquency information from the user computer through the publicly accessible network, the selection of interfaces including a form for creation and transmission of new delinquency information entries, creation of a new delinquency information entry resulting in transmission of an initial report of delinquency of a specified mortgage from a mortgage servicer to a mortgage insurer, a form for modification of previously submitted delinquency information entries and an interface for identification and uploading of a file containing delinquency information, the delinquency information manager being operative to format the delinquency information and store it in the delinquency information database in the form of delinquency information entries after the delinquency information is received from the user computer.

2. The system of claim 1 further comprising a mortgage administration server and wherein the delinquency information manager is operative to transmit delinquency information from the delinquency information server to the mortgage administration server upon a command by the user to the delinquency information manager to transmit the delinquency information.

3. The system of claim 2 wherein the delinquency information manager transmits the delinquency information to the mortgage administration server by retrieving designated delinquency information entries from the delinquency information database and transmitting them to the mortgage administration server.

4. The system of claim 3 wherein the mortgage administration server hosts a mortgage administration manager operative to receive and process delinquency information entries from the delinquency information manager.

5. The system of claim 4 and also including a mortgage information database for storing delinquency information entries received by the mortgage administration manager.

6. The system of claim 5 wherein each delinquency information entry and each mortgage information entry identifies a servicer who is servicing a mortgage identified by the entry.

7. The system of claim 6 wherein the delinquency information manager allows access to delinquency information entries only to authorized users associated with servicers identified in the entries.

8. The system of claim 7 wherein one or more of the interfaces presented to the user by the delinquency information manager are hypertext pages.

9. The system of claim 8 wherein one interface available to a user comprises a list of entry descriptions, each entry description identifying a delinquency information entry previously

stored by the user and wherein each entry description includes a hypertext link which can be activated by the user and wherein the delinquency information manager displays details of the entry identified by the entry description upon activation of the hypertext link.

10. The system of claim 9 wherein the forms for creation and modification of delinquency information are hypertext pages including fields and commands for entry and modification of the information and commands for storing of the information.

11. The system of claim 10 wherein the publicly accessible network is the Internet.

12. The system of claim 11 wherein the delinquency information manager is operative to periodically compare delinquency information entries in the delinquency information database to corresponding mortgage information entries in the mortgage information database to determine if the corresponding entries mortgage information entries are more current than the delinquency information entries and, if so, to update the delinquency information entries to reflect more current information in the mortgage information entries.

13. A method of mortgage delinquency management, comprising the steps of:
establishing an account identifying a mortgage servicing entity;
establishing a connection with a user computer through a publicly accessible network;
upon presentation of authentication information associated with the account, allowing access by the user computer to an electronic data storage area and allowing retrieval from the electronic data storage area of previously stored entries identified with the account and storage in the electronic data storage area of new or updated entries identified with the account;
upon commands and selections received from a user through the user computer, presenting one or more interfaces to the user to allow creation, review, modification and storage of delinquency information entries, including information identifying a property for which a

mortgage is in a delinquent status and information identifying the nature and status of the delinquency, each delinquency information entry including delinquency information identifying and providing relevant details about a mortgage associated with the servicing entity, creation of a new delinquency information entry resulting in transmission of initial notification of a delinquency to a mortgage insurer, at least one interface allowing identification and upload of a file from the user computer; and

upon receiving one or more delinquency information entries from the user computer and receiving a command to store the delinquency information entries, storing the delinquency information entries in the electronic data storage area.

14. The method of claim 13 wherein the electronic data storage area is a delinquency information database hosted on a delinquency information server.

15. The method of claim 14 further comprising a step of transferring information in the delinquency information entries from the delinquency information database to a mortgage information database from which the information contained in the delinquency information entries is accessible to users associated with a mortgage insurance provider.

16. The method of claim 15 further comprising a step of updating the information in the mortgage information database in response to commands and data received from users associated with the mortgage insurance provider.

17. The method of claim 16 further comprising a step of periodically comparing the information in the mortgage information database against equivalent information in the delinquency information database and updating the information in the delinquency information database with more current information from the mortgage information database.

18. The method of claim 17 wherein the interfaces are hypertext pages.

19. The method of claim 18 wherein the step of presenting interfaces to the user includes presenting a list of entry descriptions, each entry description identifying a delinquency information entry previously stored by the user and wherein each entry description includes a hypertext link which can be activated by the user and wherein the delinquency information manager displays details of the entry identified by the entry description upon activation of the hypertext link.

EVIDENCE APPENDIX

The present application, U.S. Application Serial No. 09/683/660, was filed January 31, 2002. U.S. Application Serial No. 09/909/439 (Sellers) was filed July 19, 2001.

The sole ground for rejecting claims 1-19 was a Section 102(e) rejection based on Sellers. Sellers was commonly owned with the present invention at the time the present invention was made. Under MPEP § 706.02(1)(1), with a showing of common ownership, Sellers cannot be relied upon as prior under 35 U.S.C. 102(e)/103(a).

As described in MPEP § 706.02(1)(2), the rule permits the necessary showing to be made by an appropriate statement by the applicant or attorney of record, and allows supplementation by the files referring to assignments which are recorded in the Patent and Trademark Office in accordance with 37 CFR Part 3. MPEP 700-59, 60.

Here, the entire rights in the present application, U.S. Serial No. 09/683/660 were assigned to GE Mortgage Holdings, LLC by the assignment recorded at Reel 012755 and Frame 0746. Similarly, the entire rights in U.S. Serial No. 09/909,439 were assigned to GE Mortgage Holdings, LLC by the assignment recorded at Reel 012585 and Frame 0604, as established during prosecution of this application.

RELATED PROCEEDINGS APPENDIX

None.